

same has been properly signed and presented to the Governor, this day at 11:15 o'clock A. M., for his approval. GRACE, *Chairman*.

The President in the chair.

Senator Grace moved to adjourn until 10 o'clock A. M., to-morrow.

Lost by the following vote:

YEAS—Senators Blassingame, Brady, Brown, Ford, Grace, Henry J. R., Henry F. M., Martin, McCormick, Motley, Piner—11.

NAYS—Senators Ball, Burton, Crain, Douglass, Edwards, Guy, Hobby, Ledbetter, McLeary, McCulloch, Moore, Ripetoe, Stephens, Storey, Terrell, Thompson, Wortham—17.

Senator McLeary moved the previous question, which was sustained, and the main question was ordered.

Senator Grace moved a call of the House.

Senator Thompson raised the point of order, "that the call of the House was not in order when the main question was pending.

The chair decided the point of order well taken.

The main question which was the pending amendment of Senator Storey was put and lost by the following vote:

YEAS—Senators Ball, Brady, Crain, Douglass, Edwards, Hobby, Ledbetter, McLeary, Storey, Terrell, Wortham—11.

NAYS—Senators Blassingame, Burton, Brown, Ford, Grace, Guy, Henry J. R., Henry F. M., Martin, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Thompson—17.

The bill was ordered engrossed by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Douglass, Edwards, Grace, Guy, Henry J. R., Henry F. M., Martin, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Stephens, Thompson, Wortham—19.

NAYS—Senators Ball, Brady, Crain, Ford, Hobby, Ledbetter, McLeary, Storey, Terrell—9.

Senator Edwards moved to reconsider the vote passing substitute for Senate Bills Nos: 2 and 44, to engrossment.

On motion of Senator Martin, the Senate adjourned until to-morrow at 10 o'clock A. M.

THIRTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, MAY 26, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Senator Crain presented the petition of citizens of Indianola, Texas, against the levying of occupation taxes, or the repeal of the law requiring such taxes to be collected.

Read and referred to the Committee on Finance.

A message was received from the House, announcing the passage by that body of the following bills:

House Bill No. 35—"An Act to make persons liable for damages to the owner for buying stolen property after nightfall."

House Bill No. 88—"An Act to prohibit the sale, exchange or gift of intoxicating liquors in any county, Justice's precinct, city or town in this State that may so elect; prescribing the mode of election, and affixing a punishment for its violation."

Senator Crain presented the petition of the Aransas Road Company to the Legislature of Texas, by Pryor Lea, its President, for relief, in which he fully recites the history of the company, and the difficulties under which it has labored, etc.

Read and referred to the Committee on Internal Improvements.

Senator Hobby, Chairman of Judiciary Committee No. 1, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 142, entitled, "An Act to provide for the election of District Attorney in the Twentieth and Twenty-fourth Judicial Districts of Texas," have had the same under consideration, and instruct me to report the bill back to the Senate with the following amendment, and recommend its passage as amended:

In Section 3, before the word, "twentieth," insert the word, "seventeenth."

HOBBY, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 188, entitled, "An Act to amend the penal code of the State of Texas," approved August 28, 1856, have had the same under consideration, and instruct me to report the bill back to the Senate, with the following amendment, and recommend its passage as amended.

Strike out Section 1, and insert the following as a substitute:

"Be it enacted by the Legislature of the State of Texas, That any person who shall, without the consent of the owner or holder of any farm, or other enclosed land and premises, in this State, let down the fence around said farm, land or premises, and shall fail to put up the same at once, or shall open any gate and leave the same open, shall be deemed guilty of a misdemeanor, and upon conviction thereof, before any court of competent jurisdiction, be fined in any sum not exceeding twenty-five dollars."

HOBBY, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill No. 127, entitled, "An Act to repeal Section 6 of an act approved March 10, 1875, and entitled, 'An Act to encourage the construction of canals and ditches, for navigation and irrigation,'" have had the same under consideration and instruct me to report the bill back to the Senate and ask that it be referred to Committee on State Affairs.

HOBBY, *Chairman.*

The report of the committee was adopted, and the bill so referred.

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 1, to whom was referred Senate Bill No. 186, entitled, "An Act to provide for the registration and payment of the indebtedness of the several counties of this State, incurred prior to April 18, 1876," have had the same under consideration, and instruct me to report the bill back to the Senate and recommend its passage.

HOBBY, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred Senate Bill

No. 58, entitled, "An Act to amend Section 2 of 'An Act defining the mode of surveying property in which the wife has an interest,' passed April 30, A. D., 1846, so that said Section 2 shall hereafter read as follows," have had the same under consideration, and instruct me to report the bill back to the Senate, and recommend its passage.

HOBBS, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Judiciary Committee No. 1, to whom was referred House Bill No. 97, entitled, "An Act to amend 'An Act to prevent the herding of stock on certain lands therein named,'" have had the same under consideration, and instruct me to report the bill back to the Senate, with the following amendment, and recommend its passage as amended.

Add to the end of the caption the words, "passed June 2, 1873."

HOBBS, *Chairman.*

Senator Piner, Chairman of Judiciary Committee No. 2, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 66, "An Act to regulate the sale of property of minors and persons of unsound mind," have had the same under consideration, and beg leave to report the same back, with the recommendation that it do not pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 162, entitled, "An Act to amend Articles 518 and 519 of an act entitled, 'An Act to adopt and establish a code of criminal procedure for the State of Texas,' approved August 26, 1856, have had the same under consideration, and beg leave to report it back and recommend its passage.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 76, entitled, "An Act to amend Section 3, of an act entitled, 'An Act to provide for the foreclosure of mortgages on real and personal estate,'" have had the same under consideration, and beg leave to report the same back with an amendment, to-wit: Strike out the word, "twenty," in Section 1, line 10, and insert the word, "thirty," in lieu thereof, and as amended, recommend that it do pass.

PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 164, entitled, "An Act to amend Article 436, and to repeal Article 440 of an act entitled, 'An Act to adopt and establish a code of criminal procedure,'" approved August 26, 1856, have had the same under consideration, and beg leave to report the same back with the following amendments, to-wit:

In Section 1, line 7, after the word, "found," insert the words, "or information or complaint filed," and as amended recommend that it do pass.

PINER, *Chairman.*

On motion of Senator Storey, Senate Bill No. 185, entitled, "An Act

for the relief of the heirs of Samuel Wilson, deceased, who fell at Fannin's massacre, in the year 1836, was withdrawn from Judiciary Committee No. 1, and referred to the Committee on Private Land Claims.

On motion of Senator McCulloch, Chairman of Committee on Statistics, etc., Senate Bill No. 180, reported on by his Committee previously, was re-referred to the Committee on Statistics of Industry, Public Health and History of Texas.

President *pro tem.* in the chair.

Senator Crain introduced a bill entitled: "An Act extending the time for private corporations."

Read and referred to Committee on Internal Improvements.

Senator Terrell introduced a bill entitled: "An Act to provide for settlements with the Comptroller of Public Accounts by Sheriffs and other persons interested with the collection of taxes."

Read and referred to Judiciary Committee No. 1.

Senator Terrell presented a memorial of Joseph Hallam, for relief for a claim for storage of State arms, in San Antonio, for twelve months, at \$12 per month, in the years 1870 and 1871, per contract with ex-Adjutant-General Davidson, and which he avers have not been paid.

Read and referred to the Committee on Claims and Accounts.

Senator Brown introduced a bill entitled: "An Act to protect women from slander and libel."

Read and referred to Judiciary Committee No. 2.

The President in the chair.

Senator McLeary introduced a bill (by request), entitled, "An Act concerning citations by publication in suits hereafter instituted, and to permit judgments to be taken at the first term of court after such publication."

Read and referred to Judiciary Committee No. 1.

Senator Thompson, Chairman of the Committee on Rules, offered the following resolution:

Resolved, That the following rule be added to the standing rules of the Senate:

RULE 97. Pending the consideration of any question before the Senate, any Senator may call for the previous question, and if seconded by five Senators, the presiding officer shall submit the question: "Shall the main question be now put?" and if a majority vote in favor of it, the main question shall be ordered, the effect of which shall be to cut off all further amendments and debate, and bring the Senate to a direct vote, first upon pending amendments and motions, if there be any, then upon the main proposition.

The main question may be ordered on any pending amendment or motion before the Senate as a separate proposition, and be exhausted upon a decisive vote upon said amendment or motion.

Read and lies over under the rules.

On motion of Senator Terrell, the resolution introduced by himself and adopted on the 15th inst., requesting information of the Committee on Internal Improvements as to what railroad companies in the State would forfeit any of their rights, privileges or grants under the Constitution, ordinances or laws in force, etc., was taken up and referred to the Committee on State Affairs.

On motion of Senator Crain, Senate Bill No. 103, "An Act to better define the powers and duties of Sheriffs and other officers," was made

the special order for to-morrow at 11 o'clock A. M., and from day to day until disposed of.

On motion of Senator Brady, the rules were suspended and House Bill No. 30, "An Act ratifying and confirming an ordinance of the city of Houston," adopted December 10, 1875, providing for the consolidation and funding of the bonded indebtedness of said city, was taken up and read second time."

On motion of Senator Hobby, the rules were suspended, and bill placed on its third reading by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Crain, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, McCulloch, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—25.

NAYS—None.

Bill read third time and passed by the following vote:

YEAS—Senators, Ball, Blassingame, Brady, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—25.

NAYS—None.

The unfinished business being substitute for Senate Bills Nos. 2 and 44, "An Act to organize County Courts, and define their powers and jurisdiction," was taken up.

The pending question was the motion of Senator Edwards to reconsider the vote by which the bill was ordered engrossed.

Senator Brady in the chair.

On motion of Senator Guy, Senator Terrell was excused for the day. The President in the chair.

Senator McLeary made a point of order, that the Senator from Denton had already spoken twice on the motion before the house, and asked that Rule No. 16 be enforced.

The President decided the point well taken.

The yeas and nays were demanded on Senator Edwards' motion, and the vote reconsidered by the following vote, viz:

YEAS—Senators Ball, Brady, Brown, Crain, Douglass, Edwards, Ford, Henry J. R., Henry F. M., Hobby, Ledbetter, McLeary, Storey, Wortham—14.

NAYS—Senators Blassingame, Grace, Guy, Martin, McCormick, McCulloch, Moore, Piner, Ripetoe, Stephens, Thompson—11.

Senator Ball offered the following amendment:

Amend Section 3 by inserting after the word, "dollars," in line —, the following: "The County Courts shall have concurrent jurisdiction with the District Courts in all grades of felony, except capital cases. The indictments shall originate in the District Courts, and on their adjournment the Judges thereof shall make a transfer of all the criminal causes pending therein, and over which the County Courts have jurisdiction, to the last named courts for disposition."

Lost.

Senator McCormick offered the following amendment:

In Section 3, line 48, after the word, "jurisdiction," insert, "and in all cases appealed from Justices' Courts, if in said last named cases the judgment rendered or fine imposed in the County Court shall exceed one hundred dollars."

Adopted.

Senator Piner offered the following amendment:

Add after Section 26 the following: "Said judges shall have the right to solemnize the rights of matrimony, and take acknowledgments of all instruments in writing intended for record."

Adopted.

Senator Piner offered the following amendment:

In Section 5, after the word, "injunction," in line 3, insert the words, "attachment, sequestration, garnishment."

Adopted.

Senator Edwards offered the following amendment:

In Section 3 strike out all after the word, "lands," in line 21, down to the word, "they," in line 26.

Senator Henry of Cass offered the following as a substitute for Senator Edwards' amendment:

Amend by striking out all after the word, "lands," in Section 3, line 21, down to the word, "they," in line 26, same section, and insert in lieu thereof after said word, "lands," in Section 3, line 21, "nor of suits for the enforcement of liens upon land."

Substitute adopted, and the amendment as substituted adopted by the following vote:

YEAS—Senators Ball, Blassingame, Piner, Burton, Crain, Edwards, Ford, Grace, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCulloch, Moore, Stephens, Storey, Thompson, Wortham—20.

NAYS—Senators Douglass, Guy, Piner, Ripetoe—4.

Senator Thompson offered the following substitute for Section 2:

"SEC. 2. The County Judge shall reside at the county seat, and shall not absent himself from the county for a longer period than one month without vacating his office. And there shall be begun and holden at the court-house of the respective counties throughout the State, a term of the County Court for civil and probate business, on the third Mondays in January, March, May, July, September and November, and a term for criminal business on the first Mondays in every month. And in addition to the fees that may be allowed by law to the County Judge, he shall be entitled to demand and receive the sum of two dollars and fifty cents for each case filed in the County Court, which shall be paid at the time of the filing; *provided*, that when the plaintiff makes oath that he is too poor to pay said sum, then no fee shall be demanded or received by the County Judge from any or either of the parties to said suit."

Senator Storey moved to strike out of the substitute all that portion in relation to the fees of the County Judge.

Adopted.

Senator Ripetoe offered the following amendment to Senator Thompson's amendment:

Strike out "at county seat," and insert "within five miles of the court-house of the county."

Lost.

Senator Crain moved to strike out "one month," and insert "ten days."

Lost.

Senator McCulloch moved that the Senate adjourn till 9 o'clock tomorrow morning.

Lost.

Senator Thompson's amendment was then adopted.

Senator Storey offered the following amendment:

Amend Section 8 by striking out all after the word, "attorney," in line 4, down to the word, "filed," in line 7, and insert, "based upon an affidavit, or evidence, in writing, under oath."

Senator Edwards offered the following as a substitute for Senator Storey's amendment:

Strike out all of Section 8, down to and including the word, "jurisdiction," in line 11, and insert, "prosecutions in the County Court may be commenced by information in writing, which information shall comply with Article 403, Part 3, Title 4, Chapter 3, of the code of criminal procedure, filed with the County Clerk by the District Attorney or County Attorney, which information shall be based upon the affidavit of some credible person, which shall be filed with the information; or by the affidavit made by some credible person before the Clerk of the County Court, the County Judge, the County or District Attorney, or Justice of the Peace, and filed with the County Clerk, upon which an information shall be prepared by the District or County Attorney, and filed with the County Clerk, before the case shall be called for trial; which information or affidavit shall charge the accused with some offense of which the County Court has jurisdiction."

Substitute accepted by Senator Storey, and adopted.

Senator Ledbetter offered the following amendment:

Amend by striking out, in Section 3, lines 16, 17, 18 and 19, and the word, "interest," in line 20.

Lost.

Senator Edwards offered the following amendment:

Add to Section 8, "and upon the filing of the information or affidavit provided for in this section, the Clerk of the County Court shall issue a warrant for the arrest of the accused party. Said warrant shall be in compliance with Article 216, Part 3 Title 2, Chapter 2, of the code of criminal procedure, and the warrant shall be executed in the manner specified in said chapter."

Adopted.

Senator Ledbetter moved to adjourn till to-morrow morning at 10 o'clock.

Lost.

Senator Edwards offered the following amendment:

Add to Section 20, "and executions shall be issued by the Clerk of the County Court, and all laws now in force regulating the mode of issuing executions out of the District Courts, and the mode and manner in which they shall be enforced, returned and recorded, shall be held to apply to executions issued from the County Court, so far as the same are applicable."

Adopted.

Senator Martin moved to adjourn till to-morrow morning at 10 o'clock.

Lost.

Senator Edwards offered the following amendment:

Amend Section 3 by adding after the word, "interest," in line 20, the following: "Provided, that the County Courts of Houston, Cherokee, Nacogdoches, San Augustine, Sabine, Newton, Jasper, Travis, Orange, Chambers, Polk, Tyler, Hardin, Trinity, Liberty, San Jacinto and Jefferson counties shall have concurrent jurisdiction, in all civil cases, with

the Courts of Justices of the Peace, when the matter in controversy shall exceed one hundred dollars and not exceed two hundred dollars, inclusive of interest; and concurrent jurisdiction with the Justices' Courts of all misdemeanors of which exclusive original jurisdiction is not given to the Justices' Courts, as the same are now or may be hereafter prescribed by law."

Senator Crain moved to amend by adding all the counties of his district.

Senator McLeary moved to amend by adding all the counties in the State.

Lost.

Senator Edwards' amendment was lost.

The bill was ordered engrossed by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—23.

NAYS—None.

On motion of Senator Grace, the rules were suspended, and bill placed on its third reading, by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, McCormick, Moore, Piner, Ripetoe, Stephens, Storey, Thompson, Wortham—21.

NAYS—Martin, McLeary—2.

Bill read third time, and passed by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Crain, Douglass, Edwards, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Ledbetter, Martin, McLeary, McCormick, Moore, Piner, Stephens, Storey, Thompson, Wortham—22.

NAYS—Senator Ripetoe.

On motion of Senator Crain, the Senate adjourned until 10 o'clock tomorrow morning.

THIRTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, May 27, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

A message was received from the House, announcing the passage by that body, of the following bills and resolutions:

House Bill No. 8—"An Act to regulate the opening, laying, out and working of public roads in the State of Texas."

House Joint Resolution No. 213—"To provide for the creation of a special commission to obtain certain information and report thereon, in relation to the building of a new penitentiary, and to make appropriation for the payment and expenses thereof."

House Joint Resolution No. 179—"Providing for the printing and distribution of such general laws as take effect from and after their passage," passed at this session of the Fifteenth Legislature.